

T 111/3: 11/12

# Customs Bulletin

Regulations, Rulings, Decisions, and Notices  
concerning Customs and related matters



## and Decisions

of the United States Court of Customs and  
Patent Appeals and the United States  
Customs Court

Vol. 11

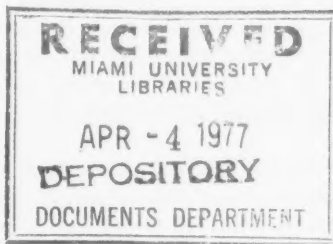
MARCH 23, 1977

No. 12

*This issue contains*

T.D. 77-77 through 77-84

Protest abstracts P77/8 and P77/9



DEPARTMENT OF THE TREASURY  
U.S. Customs Service

## NOTICE

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# U.S. Customs Service

(T.D. 77-77)

## *Countervailing Duties—Float Glass from Italy*

Notice of final rate and modification of countervailing duty order with respect to float glass from Italy; Section 159.47(f), Customs Regulations, amended

DEPARTMENT OF THE TREASURY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS,  
*Washington, D.C.*

### TITLE 19—CUSTOMS DUTIES

#### CHAPTER I—UNITED STATES CUSTOMS SERVICE

##### PART 159 - COUNTERVAILING DUTIES

On January 7, 1976, Treasury Decision 76-9 was published in the FEDERAL REGISTER (41 FR 1274). That Treasury Decision stated that it had been determined that imports of float glass from Italy produced by Societa' Italiana Vetro, S.p.A. (SIV) and Fabbrica Pisana, S.p.A. (Pisana) benefit from the payment or bestowal of bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), "by reason of various incentive programs including investment grants, special tax reductions, low-interest rate financing and the reduction of the contribution to State welfare organizations by the float glass manufacturers." It was also stated that float glass produced by Verrara di Verrante, S.p.A., did not benefit from the payment or bestowal of bounties or grants.

Because SIV and Pisana declined to provide any detailed information prior to the aforementioned determination regarding the benefits each received, the determination was based on the best information available, and the net amount of the bounties or grants was estimated at 10 percent *ad valorem* for float glass produced by both companies. Effective on January 7, 1976, liquidation was suspended of all entries for consumption or withdrawals from warehouse for consumption of such dutiable float glass produced by SIV and Pisana imported

# U.S. Customs Service

Washington, D.C.

February 1, 1900

Dear Sir:

I have the honor to acknowledge the receipt of your letter of January 27, 1900, in relation to the matter of the

importation of certain goods from the

United Kingdom.

I am sorry to hear that you are

not satisfied with the results of the

investigation conducted by the

Commissioner of Customs and Excise in this matter.

I am sure that you will find the results of the investigation to be

entirely satisfactory, and that you will find the results of the investigation to be

entirely satisfactory, and that you will find the results of the investigation to be

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directly or indirectly from Italy which benefits from such bounties or grants.

Information has now been received with respect to SIV which permits a more complete analysis of the alleged bounties and grants. Under various regional development programs administered by the Government of Italy, it now appears that an investment grant, preferential financing and a reduction in the required contribution to the state welfare organization have been given to SIV. No special tax reductions have been utilized by SIV. The Italian Government has advised the Treasury Department that the benefits received by SIV have the effect of offsetting disadvantages which would discourage SIV from moving to and expanding in less prosperous regions. Inasmuch as SIV sells a preponderance of its production in the European Community—more than 97 percent in 1975—the level of its exports outside the European Community is a small percentage of its production, and the amount of assistance provided by the government programs to SIV totaled less than three percent of the value of float glass it produced, those benefits are not regarded as bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303).

For the reasons stated above, it is hereby determined that no bounty or grant is being, or has been, paid or bestowed directly or indirectly, upon the manufacture, production, or exportation of float glass from Italy produced by Societa' Italiana Vetro, S.p.A. within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303), and T.D. 76-9 is hereby modified so as to exclude float glass from Italy produced by SIV.

Accordingly, it has been ascertained, determined or estimated and hereby declared, that the net amount of the bounty or grant paid or bestowed upon the subject merchandise produced by SIV is 0 percent *ad valorem*, and no countervailing duties will be collected upon the liquidation of entries of the subject merchandise for consumption or withdrawals from warehouse for consumption for the period January 7, 1976, through the date of publication of this notice in the FEDERAL REGISTER. Furthermore, the order to suspend liquidation of all entries for consumption or withdrawals from warehouse for consumption of the subject merchandise produced by SIV, is hereby revoked.

The table in section 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by deleting in the last entry for Italy under the column headed "Commodity", which now reads "Float glass manufactured by Societa' Italiana Vetro S.p.A. and Fabbrica Pisana S.p.A.", the words "Societa' Italiana Vetro S.p.A. and"; inserting in the column headed "Treasury Decision" the number of this Treasury Decision; and inserting the words "Bounty declared-rate; Modified



as to float glass manufactured by Societa' Italiana Vetro S.p.A." in the column headed "Action".

(R.S. 251, as amended secs. 303, as amended, 624; 46 Stat. 687, 759, 88 Stat. 2051, 2052; 19 U.S.C. 66, 1303, as amended, 1624).

(APP-4-05)

VERNON D. ACREE,  
*Commissioner of Customs.*

Approved March 2, 1977,

JOHN H. HARPER,  
*Acting Assistant Secretary of the Treasury.*

[Published in the FEDERAL REGISTER March 8, 1977 (42 FR 13016)]

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(T.D. 77-78)

*Foreign Currencies—Certification of Rates*

Rates of exchange certified to the Secretary of the Treasury by the  
Federal Reserve Bank of New York

DEPARTMENT OF THE TREASURY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS,  
*Washington, D.C., February 28, 1977.*

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 77-51 for the following country. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates:

Mexico peso:

February 14, 1977-----	\$0.0441
February 15, 1977-----	0.0440
February 16, 1977-----	0.0442
February 17, 1977-----	0.0444
February 18, 1977-----	0.0446

(LIQ-3)

JOHN B. O'LOUGHLIN,  
*Director,*  
*Duty Assessment Division.*

(T. D. 77-79)

*Foreign currencies—Daily rates for countries not on quarterly list*

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Hong Kong dollar, Iran rial, Philippines peso, Singapore dollar, Thailand baht (tical)

DEPARTMENT OF THE TREASURY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS,  
Washington, D.C., February 28, 1977.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates in U.S. dollars for the dates and foreign currencies shown below. These rates of exchange are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

## Hong Kong dollar:

February 14, 1977-----	\$0. 2149
February 15, 1977-----	0. 2148
February 16, 1977-----	0. 2147
February 17, 1977-----	0. 2147
February 18, 1977-----	0. 2147

## Iran rial:

February 14-18, 1977-----	\$0. 0143
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## Philippines peso:

February 14-18, 1977-----	\$0. 1340
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## Singapore dollar:

February 14, 1977-----	\$0. 4068
February 15, 1977-----	0. 4068
February 16, 1977-----	0. 4068
February 17, 1977-----	0. 4068
February 18, 1977-----	0. 4073

## Thailand baht (tical):

February 14-18, 1977-----	\$0. 0490
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(LIQ-3)

JOHN B. O'LOUGHLIN,  
Director,  
Duty Assessment Division.



(T.D. 77-80)

*Antidumping Duties—Portable Electric Typewriters*

Notice that American manufacturer's petition, requesting that antidumping duties be assessed with respect to portable electric typewriters from Japan, has been denied; notice of American manufacturer's desire to contest that decision

DEPARTMENT OF THE TREASURY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS,  
*Washington, D.C.*

AGENCY: United States Customs Service

ACTION: Determination on American manufacturer's petition;  
notice of desire to contest

SUMMARY: This notice is to advise the public that the Customs Service has denied an American manufacturer's petition, requesting that antidumping duties be assessed with regard to portable electric typewriters from Japan, and has received notification of that manufacturer's desire to contest such decision.

EFFECTIVE DATE: This notice is effective on the date of publication in the **FEDERAL REGISTER**.

FOR FURTHER INFORMATION CONTACT: Michael Lublinski, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, (202-566-2938).

SUPPLEMENTARY INFORMATION: On January 24, 1977, a petition was received in proper form, pursuant to section 516(a) of the Tariff Act of 1930, as amended by the Trade Act of 1974 (19 U.S.C. 1516(a)), from counsel acting on behalf of SCM Corporation, asserting that a finding of dumping be issued and antidumping duties be assessed on those entries of portable electric typewriters from Japan where it has been determined that sales were being made at prices less than the foreign market (or constructed) value, within the meaning of the Antidumping Act of 1921, as amended (19 U.S.C. 160).

A "Notice of Petition Filed by American Manufacturer, Producer or Wholesaler" was published in the **FEDERAL REGISTER** on February 9, 1977 (42 FR 8255) with respect to such entries from Japan, and interested persons were afforded an opportunity to make written submissions. By letter dated February 25, 1977, the petitioner was notified that:

The Customs Service is foreclosed from investigating allegations as to injury or examining any conclusions of the International Trade Commission made within the scope of its statutory authority under section 201 of the Antidumping Act of 1921, as amended (19 U.S.C.

160). It is our opinion that the negative determination of injury, having been made, must be considered valid in the absence of a decision of the Customs Court to the contrary, and therefore is binding upon us. Accordingly, the decision not to assess antidumping duties was correct and your petition must be denied.

Notification was received by the Department of the Treasury on February 28, 1977, of SCM Corporation's desire to contest in the United States Customs Court the failure of the Department to assess antidumping duties.

In accordance with the provisions of section 516(c) of the Tariff Act of 1930, as amended by the Trade Act of 1974 (19 U.S.C. 1516(c)), and section 175.24 of the Customs Regulations (19 CFR 175.24), notice is hereby given that the Secretary of the Treasury has decided that the antidumping duties should not be assessed and that a domestic producer has given notice, as contemplated by section 516, that it desires to contest such decision.

(CLA-2)

VERNON D. ACREE,  
*Commissioner of Customs.*

Approved March 4, 1977,

JOHN H. HARPER,  
*Acting Assistant Secretary of the Treasury.*

[Published in the FEDERAL REGISTER March 8, 1977 (42 FR 13101)]

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(T.D. 77-81)

*Cotton Textiles and Cotton Textile Products—Restriction on Entry*

Restriction on entry of cotton textiles and cotton textile products manufactured or produced in Brazil

DEPARTMENT OF THE TREASURY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS,  
*Washington, D.C., March 7, 1977.*

There is published below a directive of February 16, 1977, received by the Commissioner of Customs from the Acting Chairman, Committee for the Implementation of Textile Agreements, concerning the visa requirement for cotton textiles and cotton textile products manufactured or produced in Brazil. This directive further amends, but does not cancel, that Committee's directive of June 29, 1972 (T.D. 72-200).

This directive was published in the FEDERAL REGISTER on February 23, 1977 (42 FR 10707), by the Committee.

(QUO-2-1)

JOHN B. O'LOUGHLIN,  
*Director,*  
*Duty Assessment Division.*

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UNITED STATES DEPARTMENT OF COMMERCE  
The Assistant Secretary for Domestic  
and International Business  
Washington, D.C. 20230

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

*February 16, 1977.*

COMMISSIONER OF CUSTOMS  
*Department of the Treasury*  
*Washington, D.C. 20229*

DEAR MR. COMMISSIONER:

This directive further amends, but does not cancel, the directive of June 29, 1972 from the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit, under certain specified conditions, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1 through 64, produced or manufactured in the Federative Republic of Brazil, for which that Government had not issued an appropriate export visa. One of the requirements is that each visa include the signature of a Brazilian official authorized to issue visas.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the provisions of the Bilateral Cotton Textile Agreement of April 22, 1976, between the Governments of the United States and the Federative Republic of Brazil, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, the directive of June 29, 1972 is further amended, effective on February 16, 1977 to authorize Mr. Ary de Oliveira Seabra to issue export visas in addition to those previously designated.

Messrs. Aluisio Almeida Diniz, and Nelson Geraldo Avellar will no longer issue visas. A complete list of Brazilian officials currently authorized to issue visas is enclosed.

The actions taken with respect to the Government of the Federative Republic of Brazil and with respect to imports of cotton textiles and cotton textile products from Brazil have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL

*Acting Chairman, Committee for the  
Implementation of Textile Agreements*

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*Officials of the Federative Republic of Brazil Authorized  
To Issue Visas for Cotton Textiles and Cotton Textile  
Products Exported to the United States*

Honorio Onofre de Abreu  
Alvaro de Sa Andrade  
Francisco Sampaio de Araujo  
Jose Carlos de Araujo  
Alvaro Volpe Bacelar  
Eduardo Jose Ferreira Barnes  
Antonio Carlos Bastos Junior  
Henrique Reis Bergan  
Jose Magno de Leao Brasil  
Jose Coracy de Souza Coelho  
Octavio de Almeida Ribeiro Dantas  
Jose Maria Duprat  
Fued Farhat  
Jayme Lobo Ferreira  
Antonio Bezerra de Figueiredo  
Darcy Mattos Fonseca  
Mario Jofre Pinto de Freitas  
Publio Jackson Furiatti  
Eudes Izar  
Mario Emilio Kreibich  
Osvaldo Ladewig  
Gilfredo Vieira Lessa  
Antonio Lins  
Jarbas Cezar Loureiro  
Francisco Magalhaes  
Nelson Duran Mascia

Clidenor Jacob Medeiros  
Rolando Missfeldt  
Arnaldo Nogueira Junior  
Renato de Arruda Penteado Junior  
Joffre Pereira  
Elmo Pignatano  
Rufino Cancio Pires  
Fauzi Rahme  
Luiz Ramina  
Flavio Eduardo Patricio Ribeiro  
Lair Passos Saraiva  
Flavio Scottini  
Ary de Oliveira Seabra  
Isaac Carneiro da Silva  
Nestor de Almeida e Silva  
Onofre Marques da Silva Junior  
Geraldo de Souza  
Nilo Augusto Borges Teixeira  
Ernio Antonio Thimmig  
Dario Raphael Tobar  
Danilo Octavio de Toledo  
Roberto Varella  
Jaire Perez de Vasconcellos  
Armando Vulcano  
Celso Mario Zipf

(T.D. 77-82)

*Manmade Fiber Textile Products—Restriction on Entry*

Restriction on entry of manmade fiber textile products in category 215  
manufactured or produced in Haiti

DEPARTMENT OF THE TREASURY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS,  
*Washington, D.C., March 7, 1977.*

There is published below the directive of February 16, 1977, received by the Commissioner of Customs from the Acting Chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of manmade fiber textile products in category 215 manufactured or produced in Haiti. This directive amends, but does not cancel, that Committee's directive of December 27, 1976 (T.D. 77-48).

This directive was published in the FEDERAL REGISTER on February 23, 1977 (42 FR 10708), by the Committee.

(QUO-2-1)

JOHN B. O'LOUGHLIN,  
*Director,*  
*Duty Assessment Division.*

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UNITED STATES DEPARTMENT OF COMMERCE  
The Assistant Secretary for Domestic and  
International Business  
*Washington, D.C. 20230*

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

*February 16, 1977.*

COMMISSIONER OF CUSTOMS  
*Department of the Treasury*  
*Washington, D.C. 20229*

DEAR MR. COMMISSIONER:

This directive amends, but does not cancel, the directive issued to you on December 27, 1976 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton and man-made fiber textile products produced or manufactured in Haiti.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 22, 1976, as amended, between the Governments of the United States and Haiti, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on February 16, 1977 and for the twelve-month period which began on January 1, 1977 and extends through December 31, 1977, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 215 in excess of 869,565 dozen pairs.

The actions taken with respect to the Government of Haiti and with respect to imports of man-made fiber textile products from Haiti have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the *FEDERAL REGISTER*.

Sincerely,

ARTHUR GAREL  
*Acting Chairman, Committee for the  
Implementation of Textile Agreements*

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No decision will be published as T.D. 77-83.

(T.D. 77-84)

*Instruments of International Traffic*

Certain wooden bins used for the transportation of apples designated as instruments of international traffic

DEPARTMENT OF THE TREASURY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS,  
*Washington, D.C., March 8, 1977.*

It has been established to the satisfaction of the U.S. Customs Service that bins constructed of plywood sides and bottoms reinforced with lumber, or wholly of lumber of a slatted design, approximately 46 inches long, 46 inches wide, and 32 to 36 inches high, with a capacity of approximately 25 bushels, and permanently marked with company initials or trade names, used for the transportation of apples, are substantial, suitable for and capable of repeated use, and used in significant numbers in international traffic.

Under the authority of section 10.41a(a)(1), Customs Regulations (19 CFR 10.41a(a)(1)), I hereby designate the above-described wooden bins as "instruments of international traffic" within the meaning of section 322(a), Tariff Act of 1930, as amended (19 U.S.C. 1322(a)). These bins may be released under the procedures set forth in section 10.41a, Customs Regulations (19 CFR 10.41a). (102556)

(BOR-7-07)

J. P. TEBEAU,  
*Director,*  
*Carriers, Drawback and Bonds Division.*

[Published in the FEDERAL REGISTER March 15, 1977 (42 FR 14189)]

# Decisions of the United States Customs Court

United States Customs Court

One Federal Plaza  
New York, N.Y. 10007

*Chief Judge*

Nils A. Boe

*Judges*

Paul P. Rao  
Morgan Ford  
Scovel Richardson  
Frederick Landis

James L. Watson  
Herbert N. Maletz  
Bernard Newman  
Edward D. Re

*Senior Judges*

Mary D. Alger  
Samuel M. Rosenstein

*Clerk*

Joseph E. Lombardi

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## *Abstracts*

### *Abstracted Protest Decisions*

DEPARTMENT OF THE TREASURY, February 28, 1977.

The following abstracts of decisions of the United States Customs Court at New York are published for the information and guidance of officers of the customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to customs officials in easily locating cases and tracing important facts.

VERNON D. ACREE,  
*Commissioner of Customs.*



DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED		HELD		BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate		Par. or Item No. and Rate			
P778	Laudis, J. February 24, 1977	Retrain Imports, Inc.	65/12579S, etc.	Par. 216 15%		Par. 1558 8.5%		Sumitomo Shoji New York, Inc. v. U.S. (C.D. 4505, aff'd C.A.D. 1169)	New York Synthetic rubber articles
P779	Watson, J. February 24, 1977	Brentwood Originals	70/31121, etc.	Item 365.60 40%, 38% or 36% Item 366.63 50%, 47.5%, 45% or 42.5%		Item 363.30 12.5%, 11.5% or 10.5%		Brentwood Originals v. U.S. (C.D.'s 4572, 4653)	Los Angeles Velveteen and corduroy covers for bolsters and bedrests

Judgment of the United States Customs Court  
in Appealed Case

FEBRUARY 25, 1977

APPEAL 76-22.—The United States *v.* Nils A. Boe, Chief Judge, United States Customs Court, and Servco Company.—Petition for writ of prohibition and mandamus granted November 4, 1976 (C.A.D. 1177); orders of January 12 and March 1, 1976 (not published) vacated; action dismissed for lack of jurisdiction.

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Rehearing Motion Filed

FEBRUARY 24, 1977

Mobay Chemical Corp. *v.* United States, Court Nos. 72-6-01283, 72-3-00745 and 73-7-01790 dismissed from consolidated Court No. 70/36742 for lack of jurisdiction.—URETHANE PASTES.—C.D. 4685. Motion by plaintiff.

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Appeal to United States Court of Customs  
and Patent Appeals

APPEAL 77-14.—Karoware, Inc. *v.* United States.—WINE RACKS—BARS; GLASSWARE; BAR TOOLS—ARTICLES OF WOOD—SEPARATELY DUTIABLE ARTICLES—SETS—FURNITURE—ENTIRETIES—TSUS. Appeal from C.D. 4681.

The merchandise in this case consists of wine racks, and different types of wooden bars imported together with glassware and some with bar tools also. The wine racks and bars (invoiced as keg bars, castle bars, tavern bars, executive roll top desk bars, small keg bars, treasure chest bars, cube bars, wine barrel bars, and bookshelf bars) were classified as other household utensils not specially provided for, of wood, under item 206.97, Tariff Schedules of the United States, as modified by T.D. 68-9, and assessed with duty at 15, 13 or 11.5 percent ad valorem; or as boxes, cases or chests of wood under item 204.40, TSUS, and assessed with duty at 16½ percent; or as articles of wood, not specially provided for, under item 207.00, TSUS, as modified by T.D. 68-9, and assessed with duty at 10 percent. Plaintiff-appellant claimed that the articles should have been classified as furniture under item 727.35, TSUS, as modified by T.D. 68-9, and assessed with duty at 9, 8 or 7 percent. Plaintiff's "furniture" claim was abandoned as to all the bars except the keg, castle, tavern,

executive roll top desk, and bookshelf bars. The glassware imported with the bars was separately classified as glassware under items 546.52 and 546.54, TSUS, and assessed with duty at various rates, depending upon the date of entry. Plaintiff claimed that the glassware was dutiable as entireties with the bars with which they were imported. In addition to the glassware, ice buckets and tongs were imported with cask bars. The cask bars were classified under two of the three aforesaid wood provisions, except in one instance when they were classified as furniture under item 727.35. The ice buckets were classified as articles of aluminum under item 654.10, TSUS, and the tongs were classified as hand tools of iron or steel under item 651.47, TSUS, and assessed at various rates. Plaintiff claimed that the ice buckets and tongs were dutiable as entireties with the cask bars and glassware. Book bars and wonder bars were imported with bar tools in addition to the glassware. These bars were classified under item 651.75, TSUS, as sets, dutiable at the highest rate applicable to the articles in the sets subject to the highest rate of duty, i.e., the glassware (at 50 percent ad valorem under item 546.52, TSUS) in accordance with schedule 6, part 3, subpart E, TSUS. Plaintiff claimed that the book and wonder bars were dutiable "as entireties, with their glassware and tools, as boxes, cases, or chests of wood under item 204.40 or, as separately dutiable articles, under the same provision, with the glassware being classified under either item 546.50 or 546.54, depending upon its value." The Customs Court held that plaintiff failed to rebut the statutory presumption of correctness and overruled its claims. The classifications of the customs officials were sustained.

It is claimed that the Customs Court erred in not finding and holding that the wine racks, keg bars, castle bars, tavern bars, executive roll top desk bars and bookshelf bars are "furniture" within the meaning of that term as used in the tariff schedules; in not finding and holding that all of the bars are dutiable as entireties with the glassware or with the glassware, bar tools, ice buckets and tongs, with which they were imported; in finding and holding that the book bars and wonder bars were properly classified as "sets" together with their glassware and bar tools; in finding and holding that the wine racks are not "designed to be placed on the floor or ground," and in not finding and holding that they are designed for such placement; in finding and holding that by "the use of the word 'designed', Congress intended to include only those articles that are particularly and especially constructed to be placed on the floor or ground;" in finding and holding "that the criterion for an article to be embraced by the words 'kitchen cabinets and similar cupboards' is that it is capable of being permanently fastened to the wall and not movable at will"; in finding and holding that the keg bars, castle bars, tavern bars, executive

roll top desk bars, and bookshelf bars are incapable of being permanently fastened to a wall and not movable at will, and in not finding and holding that these bars are describable as cupboards, similar to kitchen cabinets, "designed to be fixed to the wall"; in not finding and holding that the bars and glassware were designed as a unit; in finding and holding that the bars and glassware retain their separate identity and function; in finding and holding that the book bars and wonder bars together with their glassware and bar tools are "a collection of articles which naturally compliment each other, and usually go together," and in not finding and holding that the articles are not such a collection; are not "[a] number of things of the same kind ordinarily used together"; are not "an assortment"; and are not "a suit"; in finding and holding that the importer failed to rebut the statutory presumption of correctness; in finding and holding for the defendant, contrary to law, and contrary to facts.

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## Customs Court

Appeal to U.S. Court of Customs and Patent Appeals (p. 16):

    Appeal:

        77-14—Wine racks; bars; glassware; bar tools; articles of wood; separately dutiable articles; sets; furniture; entretics, TSUS

Judgment in appealed case (p. 16):

    Appeal:

        76-22—Petition for writ of prohibition and mandamus granted November 4, 1976

Rehearing applied for (p. 16): urethane pastes

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